



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:  
**GRIFFIN, Michael et al.**

Serial Number:	Filed herewith	Examiner:	Not yet assigned
Filed:	Filed herewith	Art Unit:	Not yet assigned

For: **SAFETY SCALPEL**

MAIL STOP PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO MAKE SPECIAL FOR NEW APPLICATION  
UNDER M.P.E.P. ' 708.02, VIII, ACCELERATED EXAMINATION**

Dear Sir or Madam:

Applicant hereby petitions to make special this new application, which has not received any examination by the Examiner. Applicant has conducted a pre-examination search and seeks to expedite examination of the present application.

All the claims in this case are directed to a single invention. If the Office determines that all the claims presented are not obviously directed to a single invention, then Applicant will make an election without traverse as a prerequisite to the grant of special status.

A search has been made by a professional searcher in the following classes and subclasses: 30/62, 335; and D24/146, 30/63, 125, 151, 162, 329, 337, 339; 606/166, 167 and 170

Below are the references deemed most closely related to the subject matter encompassed by the claims. These include:

<u>PATENT NUMBER</u>	<u>INVENTOR</u>	<u>DATE OF ISSUE</u>
6,629,985	Kiehne	10/07/2003
6,626,925	Newman et al.	09/30/2003
D473,649	Howell et al.	04/22/2003
6,053,929	Cohn et al.	04/25/2000
5,941,892	Cohn et al.	08/24/1999
5,938,675	Gharibian	08/17/1999
5,938,676	Cohn et al.	08/17/1999
5,830,226	Webb et al.	11/03/1998
5,792,162	Jolly et al.	08/11/1998
5,676,677	Landis et al.	10/14/1997
5,599,351	Haber et al.	02/04/1997
5,527,329	Gharibian	06/18/1996
5,342,379	Volinsky	08/30/1994
5,207,696	Matwijcow	05/04/1993
5,139,507	Dolgin et al.	08/18/1992

## **DISCUSSION OF THE REFERENCES**

Set forth below are descriptions of the patents that may be closely related to the claim of the present invention and may have the most applicability to patentability thereof. Upon review of the following, Applicant believes that the Examiner will agree that these references do not defeat patentability of Applicant's claims and that Applicant's claims should be allowed.

### **Kiehne, U.S. Patent No. 6,629,985**

This U.S. patent may disclose a surgical scalpel with retractable guard, including a scalpel blade, a guard with extends at least about the cutting edge of the scalpel, and releasable attachment device that attaches the blade to the guard. The device is also releasably attachable to a unique scalpel handle.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

### **Newman et al., U.S. Patent No. 6,626,925**

This U.S. patent may disclose a shielded surgical scalpel including a blade attached to a handle, with the shield mounted onto the handle. The shield is moveable with respect to the handle and blade from a position where the blade is covered to a position where the blade is uncovered for use.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Howell et al., U.S. Design Patent No. D473,649**

This U.S. design patent may disclose a unique design for a safety scalpel and handle.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Cohn et al., U. S. Patent No. 6,053,929**

This patent may disclose a surgical scalpel [which] includes an elongate handle defining a longitudinal axis and having a proximal end and a distal end. The scalpel has a cartridge removably mounted to the handle that has a blade holder with a proximal end and a distal end. There is a blade fixedly attached to blade holder disposed so that the blade projects distally outwardly when the cartridge is mounted on the handle. The cartridge also has a shield with a proximal end, a distal end and a bottom mounted onto the blade holder. The shield is slidably movable between a distal position where the shield substantially prevents inadvertent access to the blade and a proximal position where the shield substantially surrounds a portion of the handle and the blade is exposed for use. The cartridge is releasably mountable to the handle and has elements for substantially preventing movement of the shield with respect to the blade holder unless the cartridge is mounted on the handle. The cartridge further including elements for substantially preventing an inadvertent movement of the shield to the proximal position thereby to expose the blade as the cartridge is being mounted to the handle.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Cohn et al, U.S. Patent No. 5,941,892**

This U.S. patent may disclose a surgical scalpel [which] includes an elongate handle that has a proximal end, a open distal end and sidewalls that define an upwardly open cavity with a bottom with an open void therein. The sidewalls each have an elongate channel therein. The scalpel of the invention includes a cartridge that is removably retained within the cavity . The cartridge includes a shield. The cartridge has a blade holder with a proximal end and a distal end mounted within the shield for slidable movement between a proximal and distal position. There is a latch on the blade holder for engaging the handle and the shield to retain releasably the blade holder in the distal position and the proximal position. The scalpel has a blade fixedly attached to the blade holder so that when the blade holder is in the distal position, the blade projects distally from the handle. When the blade holder is in the proximal position, the blade is within the shield and the handle and thus substantially protected from inadvertent exposure.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Gharibian, U.S. Patent No. 5,938,675**

This U.S. patent may disclose a surgical scalpel including a retractable sleeve, and a handle that is releasably attached to a blade holder securing a blade. The patent further discloses a unique handle configuration for use only with the safety blade.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Cohn et al., U.S. Patent No. 5,938,676**

This U.S. Patent may disclose a scalpel of the present invention [which] includes an elongate handle defining a longitudinal axis and having a proximal end and a distal end. The scalpel of the invention further includes a cartridge that is removably mounted to the handle. The cartridge has blade holder with a proximal end and a distal end with a blade fixedly attached that is disposed so that the blade projects distally outwardly when the cartridge is mounted to the handle. The cartridge also includes a shield that is slidably mounted onto the blade holder for movement between a distal position where the shield substantially prevents inadvertent access to the blade and a proximal position where the shield substantially surrounds a portion of the handle and the blade is exposed for use. The cartridge is releasably mountable on the handle. The shield is substantially prevented from movement to the proximal position unless the cartridge is mounted on the handle and not dismountable from the handle unless the shield is in the distal position.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Webb et al., U.S. Patent No. 5,830,226**

This U.S. patent may disclose a microsurgical scalpel assembly including an elongate scalpel handle and a scalpel blade affixed at one end of the scalpel handle and a shield releasably affixed to the one end of the scalpel handle and extending away from the handle to operably surround the scalpel blade to isolate sharp surfaces of the scalpel blade from a surgeon and to protect the blade from damage during a re-sterilization autoclave procedure.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Jolly et al., U.S. Patent No. 5,792,162**

This invention may disclose an improved guarded surgical scalpel having a movable guard that can be retracted to expose the blade and that can be extended to cover the sharp cutting edge of the blade. The guard is telescopically mounted inside the blade handle and includes a deflectable top wall portion that holds a detent pin or that defines a radially extending flange. This detent pin or flange engages a slot having upturned ends that is formed in at least one side wall of the blade handle. The detent pin or flange is biased upwardly into the upturned ends of the slot to hold the guard in the retracted or extended position. The blade can include a tang having a notch formed therein. The distal end of one sidewall of the guard can be formed with a complementary notch such that when the distal end of the sidewall of the guard engages the proximal end of the blade, forward movement of the guard forces the blade off of the scalpel. A wedge mechanism is provided to urge the proximal end of the blade away from a blade carrier into engagement with the distal end of the sidewall of the guard.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Landis et al., U.S. Patent No. 5,676,677**

This U.S. patent may disclose a shield [that] is provided for a surgical scalpel having a handle and a blade secured thereto. In one embodiment, the shield is slidably engaged with the

blade, and movable between a position covering the cutting edge of the blade and a position exposing the cutting edge of the blade. An actuation mechanism is coupled to the shield for moving the shield between the position covering the cutting edge and the position exposing the cutting edge. In another embodiment, the shield is pivotally and frictionally engaged to the blade while still allowing the shield to be moved between a position covering the cutting edge of the blade and a position exposing the cutting edge of the blade. An actuation mechanism is included to cause the travel of the shield between the two positions.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Haber et al., U.S. Patent No. 5,599,351**

This U.S. patent may disclose a scalpel construction shown in which shipping of the scalpel occurs with the blade retracted, surgeon usage enables exposure of the scalpel blade from required cutting during surgery, and finally and upon completed use of the scalpel, one-way retraction of the scalpel into a "sharp-safe" blade covering disposition can occur. Thereafter, upon scalpel discard, the cutting edge of the scalpel is safely shielded and inhibited from further intentional or inadvertent cutting. A first design includes scalpel reciprocation along a handle against a detent for shipping with the blade within the handle, use with the blade exposed from the handle, and one-way retraction into the handle immediately prior to discard. A second design includes a handle folding across the scalpel body with a sleeve having a first position for covering the blade during shipping, a second position for holding the blade extended and exposed for surgery, and a third position for permanently locking about the



scalpel blade after use. A third design includes a spring loaded scalpel normally producing blade retraction with the blade releasing to and from a protected position with provision made for locking the blade within the housing after use is completed. A fourth design includes a scalpel covered with a removable sheath having a hinge in the plane of the handle which is held in the extended position by a handle retained portion of the sheath. By sliding the sheath away from the hinge, the blade may be placed within a handle latch with the cutting edge of the blade permanently covered.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Gharibian, U.S. Patent No. 5,527,329**

This U.S. patent may disclose a surgical scalpel [that] has a retractable sleeve. An elongated handle with a contoured grip portion is releasably attached to a blade holder securing a surgical blade. The blade holder is secured to the handle by a hook and groove assembly and a male to female connection. The sleeve slides between an extended position and a retracted position on the handle and blade holder. The extended position of the sleeve covers the blade thereby protecting operating room personnel. An arch on the sleeve contacts the hook and disengages the hook out of the groove to facilitate removal of the blade holder.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Volinsky, U.S. Patent No. 5,342,379**

This U.S. patent may disclose a safety scalpel which comprises a disposable cartridge and a permanent handle. The disposable cartridge is releasably engaged to the handle. The scalpel is received solely within the cartridge and can be extended and retracted as desired. The biased retraction of the scalpel minimizes injury to operating personnel. The disposable cartridge enhances safety procedures.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Matwijcow, U.S. Patent No. 5,207,696**

This U.S. patent may disclose a scalpel [which] includes a blade carrier and blade shield equally movable but in opposite longitudinal directions in response to longitudinal movement of an actuator along the upper edge of the scalpel housing. Equal and opposite motion is achieved using a pinion disposed in the housing and engaged on opposite diametric sides by racks secured to the blade shield and blade carrier. The actuator is compressible to remove stop members secured thereto from respective recesses, thereby permitting movement of the blade carrier and blade shield from defined extreme positions.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

**Dolgin et al., U.S. Patent No. 5,139,507**

This U.S. patent may disclose a scalpel [that] is provided with a blade guard which is mounted for movement between a blade-guarded position and a blade-exposed position and an actuating mechanism for the blade guard is positioned in such a way that the fingers of the surgeon automatically engage the mechanism when the scalpel is held in its normal position of use. The actuating mechanism is coupled to the blade guard through a linkage assembly which causes the blade guard to move over a substantially greater distance than the distance which the surgeon's fingers move in operating the actuating mechanism. In a preferred embodiment, the blade guard slides over a linear path, the actuating mechanism comprises a tongue-like structure integral with the scalpel, and the linkage assembly comprises a plurality of pivotally interconnected lever arms. One of the lever arms is positioned so as to be captured in a detent mechanism when the blade guard is fully retracted to its blade-exposed position.

It appears that this reference does not disclose a handle configured to couple to a blade with or without a housing.

Also attached is an Information Disclosure Statement setting forth the entire results of the performed search.

Applicant is submitting the appropriate fee under 37 C.F.R. 1.17(i) in the amount of \$130.00 included with the filing fee payment for the accompanying application.

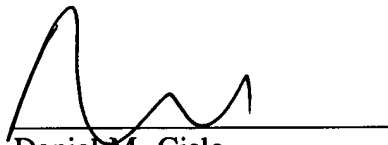
In complying with the requirements of the present petition and in particularly setting forth the patentability of his claims, Applicant believes the application is in a condition for allowance. Applicant respectfully requests the Examiner to pass the application onto allowance

at an early date. It is not believed that any additional fees are due, however, in the event any additional fees are due, the Examiner is authorized to charge Applicant's Attorney's Deposit Account No. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: March 12, 2004



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Enclosure

Information Disclosure Statement and  
Information Disclosure Citation

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